

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

KEVIN JEROME JONES	§	
VS.	§	CIVIL ACTION NO. 9:20-CV-71
WARDEN M. BUTCHER, <i>et al.</i> ,	§	

MEMORANDUM OPINION AND ORDER
OVERRULING OBJECTIONS AND ACCEPTING REPORT AND RECOMMENDATION

Petitioner, Kevin Jerome Jones, an inmate confined at the Eastham Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends this action be dismissed without prejudice to petitioner's right to re-file his claims pursuant to 42 U.S.C. § 1983 (docket entry no. 7).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the records, and pleadings. Petitioner filed "notices" to the Report and Recommendation, which the court liberally construes as objections. (docket entry nos. 10-13). This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

Although petitioner's objections are hard to discern, it appears petitioner continues to complain about the conditions of his confinement which are properly pursued under 42 U.S.C. § 1983. It is noteworthy as outlined by the Magistrate Judge that petitioner is a serial litigant where numerous cases filed by him have been dismissed pursuant to 28 U.S.C. § 1915(g). It would appear by filing his claims pursuant to 28 U.S.C. § 2254, petitioner may be attempting to circumvent the § 1915(g) bar.

ORDER

Accordingly, petitioner's "notices" construed as objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ACCEPTED**. A Final Judgment will be entered in accordance with the recommendations of the Magistrate Judge.

So ORDERED and SIGNED, Oct 22, 2020.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge